

HOUSE BILL 2095

By Casada

AN ACT to amend Tennessee Code Annotated, Title 29;
Title 37 and Title 47, relative to waivers of liability
on behalf of minors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 1, is amended by adding the following as a new section:

(a) The parent or legal guardian of a minor child may, on behalf of the minor child, waive or release, in advance, any claim or cause of action against any individual or private, commercial, public, or nonprofit entity, including any owner, affiliate, employee, or agent of the entity, that provides any sporting, recreational, or education activity, or other commonly understood activity, that would accrue to the minor child for personal injury or death, resulting from negligence related to an inherent risk of the activity.

(b) To be enforceable, a waiver or release executed under this section must, at a minimum, include the following statement in a clearly distinguishable typeface from the rest of the text of the waiver or release:

NOTICE TO THE MINOR CHILD'S PARENT OR GUARDIAN

Read this form completely and carefully. This is a release of your rights and the rights of your minor child. You are agreeing to allow your minor child to engage in a potentially dangerous activity. You are agreeing that, even if (name of release party or parties) uses reasonable care in providing this activity, there is a chance your minor child may be seriously injured or killed by participating in this activity because there are certain known and unknown dangers that cannot be avoided or eliminated. Such

dangers include, but are not limited to, the potential actions, inactions, or negligence of you or your minor child; the potential actions, inactions, or negligence of others, including other activity participants and (name of released party or parties) employees and agents; the condition of the equipment used in the activity, facilities, or areas where the activity is being conducted; and other known and unknown risks associated with the activity or the premises upon which the activity is being conducted. By signing this form, you are giving up your minor child's right and your right to recover from (name of released party or parties) in a lawsuit for any personal injury, including death, to your child or any property damage that results from negligence related to an inherent risk of the activity. You have the right to refuse to sign this form, and (name of released party or parties) has the right to refuse to let your child participate if you do not sign this form.

(c)

(1) Nothing in this section authorizes the parent or legal guardian acting on behalf of a minor child to waive the minor child's prospective claim against a person or entity for a willful and wanton act or omission, a reckless act or omission, or a grossly negligent act or omission.

(2) Nothing in this section authorizes the parent or legal guardian acting on behalf of a minor child to enter into a contract on the minor child's behalf, except as provided in this section or as otherwise provided by law.

(d) For purposes of this section, "inherent risk" means those dangers or conditions, known or unknown, that are characteristic of, intrinsic to, or an integral part of the activity and that are not eliminated even if the activity provider acts with due care in a reasonably prudent manner, including, but not limited to:

(1) The failure by the activity provider to warn the parent or minor of an inherent risk; and

(2) The risk that a minor, the activity provider, or another participant in the activity may act in a negligent or intentional manner and contribute to the injury or death of the minor.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to waivers and releases entered into on or after the effective date of this act.